

## **IC 14-36-2**

### **Chapter 2. Acquisition of Land for Reclamation**

#### **IC 14-36-2-1**

##### **Inapplicability of chapter**

Sec. 1. Notwithstanding any other provision of this chapter, this chapter does not apply to coal mining operations if IC 14-34 is applicable to those operations under IC 14-34-1-4(a) or IC 14-34-1-4(b).

*As added by P.L.1-1995, SEC.29.*

#### **IC 14-36-2-2**

##### **"Land" defined**

Sec. 2. As used in this chapter, "land" means ground, soil, or solid materials of the earth:

(1) disturbed by mining and not reclaimed under:

(A) IC 14-34 or IC 13-4-1 (before its repeal); or

(B) IC 14-36-1 or IC 13-4-6 (before its repeal);

whether or not subject to IC 14-34 or IC 14-36-1 due to effective dates; and

(2) in violation of:

(A) air pollution control laws (as defined in IC 13-11-2-6);

(B) water pollution control laws (as defined in IC 13-11-2-261);

(C) environmental management laws (as defined in IC 13-11-2-71);

(D) IC 13-7, IC 13-1-3, or IC 13-1-1 (before their repeal); or

(E) applicable rules.

*As added by P.L.1-1995, SEC.29. Amended by P.L.1-1996, SEC.69.*

#### **IC 14-36-2-3**

##### **"Mining" defined**

Sec. 3. As used in this chapter, "mining" means the following:

(1) Surface mining.

(2) Surface coal mining operations.

(3) Underground mining.

*As added by P.L.1-1995, SEC.29.*

#### **IC 14-36-2-4**

##### **"Reclamation" defined**

Sec. 4. As used in this chapter, "reclamation" means rehabilitation under IC 14-36-1.

*As added by P.L.1-1995, SEC.29.*

#### **IC 14-36-2-5**

##### **"Restore" or "restoration" defined**

Sec. 5. As used in this chapter, "restore" or "restoration" means rehabilitation under IC 14-36-1.

*As added by P.L.1-1995, SEC.29.*

#### **IC 14-36-2-6**

##### **Methods for acquisition of land**

Sec. 6. The department may acquire land by:

- (1) negotiation; or
- (2) exercise of the power of eminent domain under IC 32-24-1.

*As added by P.L.1-1995, SEC.29. Amended by P.L.2-2002, SEC.65.*

#### **IC 14-36-2-7**

##### **Opportunity for owner to restore land**

Sec. 7. Before acquiring land the department shall extend to the owner of the land a reasonable opportunity to restore the land. If the owner:

- (1) agrees in writing to perform the restoration; and
- (2) starts the restoration within ninety (90) days;

the land may not be acquired unless, in the opinion of the department, there is not a satisfactory effort to complete restoration.

*As added by P.L.1-1995, SEC.29.*

#### **IC 14-36-2-8**

##### **Price for land**

Sec. 8. The determination of the negotiated price or condemnation price is subject to the following:

- (1) Anticipated costs of reclamation.
- (2) Cost of abating pollution conditions.

*As added by P.L.1-1995, SEC.29.*

#### **IC 14-36-2-9**

##### **Payment of purchase price, damages, and incidental expenses**

Sec. 9. The:

- (1) purchase price, for a negotiated acquisition; or
- (2) damages as finally determined, for acquisition by condemnation;

and the necessary incidental expenses shall be paid from appropriations made by the general assembly or from federal money made available for these purposes.

*As added by P.L.1-1995, SEC.29.*

#### **IC 14-36-2-10**

##### **Acts of restoration performed or contracted for**

Sec. 10. The director may:

- (1) grade, plant, and perform other acts of restoration and reclamation; or
- (2) contract for the performance of restoration or reclamation work;

to the extent and subject to the conditions that state or federal money is appropriated and available.

*As added by P.L.1-1995, SEC.29.*

#### **IC 14-36-2-11**

##### **Transfer of jurisdiction of land to state agency**

Sec. 11. After restoration of the acquired land, the department may, with the approval of the governor, transfer jurisdiction of the land or a part of the land to a state agency that can best utilize the land for public purposes.

*As added by P.L.1-1995, SEC.29.*

#### **IC 14-36-2-12**

##### **Sale of land**

Sec. 12. (a) If the retention of the land by the department or other state agencies is determined to be impractical, the department may, with the approval of the governor, sell the land:

(1) to political subdivisions of the state at the cost of acquisition and restoration; or

(2) by public sale to the highest bidder for not less than fair market value for reclaimed land as determined by two (2) private appraisers appointed by the department.

(b) The proceeds of a sale may, upon approval of the department, be used and expended to reclaim and rehabilitate land.

*As added by P.L.1-1995, SEC.29.*